

REMARKS

By way of the above amendments, the specification has been amended to conform with changes made to Fig 3 of the drawings, claim 7 has been amended, and claims 27-48 have been canceled without prejudice or disclaimer. Claims 1-26 currently are pending.

It is noted that the Office Action includes several inconsistencies concerning rejected and objected to subject matter. Specifically, on page 1, the Office Action Summary, part 6 indicates that claims 1-3, 7, 11, 12, 18, 19 and 23-26 are rejected, and part 7 indicates that claims 4-6, 8-10, 13-17 and 20-22 are objected to. However, pages 3 to 4, sections 9-11 of the Action indicate that claims 1-3, 5-7, 11, 12, 19 and 23-26 are rejected; and page 5, section 13 indicates allowable subject matter for claims 4-6, 8-10, 13-18 and 20-22. In a telephonic conference conducted on March 17, 2004, the Examiner provided the following clarification for these parts of the Office Action:

In the Office Action Summary:

Part 6 should have stated: "Claims 1-3, 5-7, 11, 12, 19 and 23-26 are rejected."

Part 7 should have stated: "Claims 4, 8-10, 13-18 and 20-22 are objected to."

Page 5, section 13 of the specification should have stated: "Claims 4, 8-10, 13-18 and 20-22 are objected to as being dependent ... intervening claims."

Applicant gratefully notes the Examiner's indication of allowable subject matter with respect to dependent claims 4, 8-10, 13-18 and 20-22. It is respectfully submitted, however, that all pending claims are allowable, for the reasons provided below. Applicant respectfully requests reconsideration and withdrawal of the rejection of the claims.

The Office Action includes an objection to Fig. 3 for not having separate labels for parts A to D. Applicant submits herewith a replacement formal drawing sheet in which the parts A to D have been respectively relabeled Figs. 3A to 3D. Applicant respectfully requests the Examiner to approve these drawing changes.

To conform with the proposed changes to the drawings, Applicant has amended paragraphs [0026] and [0043] of the specification, and have added new paragraphs [0026.1] to [0026.3].

The Office Action includes a rejection of claim 7 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant disagrees that an inadvertent omission of “of” after “of one” in claim 7 renders this claim indefinite, especially when read in light of the specification. However, the form of claim 7 has been changed to improve readability. It is respectfully submitted that claim 7 is definite and fully complies with Section 112. Accordingly, Applicant requests that the rejection be withdrawn.

The Office Action includes a rejection of claims 1-3, 5-7, 11 and 19 under Section 102, as allegedly being anticipated by German patent publication no. DE 29917940 U1 or U.S. Patent No. 6,615,638, both to Lochner et al. This rejection is respectfully traversed.

Before proceeding with a detailed analysis of the differences between the present invention and the cited references, it should be noted that the Office Action states that the cited Lochner German patent publication is “equivalent to that of US 6,615,638.” In the following remarks, references to “the Lochner et al. patent” and “Lochner et al.” concern specific reference to U.S. Patent 6,615,638. However, it is to be understood that these references to U.S. patent 6,615,638 also cover any equivalent disclosure in the Lochner et al. German patent publication.

Returning now to representative claim 1, this claim recites an apparatus for gravimetrically calibrating a multi-channel pipette. The apparatus comprises a balance with a load receiver configured to support one of a plurality of receptacles, a holder device configured to hold the plurality of receptacles, the receptacles being seated in the holder device at defined equal intervals from each other and arranged so that the receptacles can be filled with a test liquid from pipette tips of the multi-channel pipette, and a transport device for transporting the holder device to the load receiver. The transport device has means for placing on and subsequently removing from the load receiver one after another of the receptacles.

For example, with reference to Figures 1, 2, 6 and 9, and the description thereof in paragraphs [0035] to [0056] of the specification, an exemplary apparatus in accordance with the present invention for gravimetrically calibrating a multi-channel pipette includes a balance 37 with a load receiver 38 configured to support one of a plurality of receptacles 13.

A holder device 10 is configured to hold the plurality of receptacles 13 such that they are seated in the holder device at equal intervals from each other. For instance, in the exemplary holder shown in Figure 2, the receptacles 13 have suspension members 19, 19' extending laterally therefrom and are seated in indentations 18 equally spaced along in a holder rack 16. As shown in Figure 9, seating the receptacles at equal intervals allow them to be filled with a test liquid form pipette tips 44 of a multi-channel pipette.

The exemplary apparatus shown in Figure 1 includes a transport device 1 for transporting the holder device 10 to the load receiver 38. The transport device has means for placing on and subsequently removing from the load receiver one after another of the receptacles. For example, with reference to Figure 5, an exemplary means may include a carriage 8 for receiving the holder device 10 and moving it in a channel 5 of the transport device 1 guided by racks 7. When the holder device 10 is made to move along the channel, the receptacles 13 held by the holder device 10 are placed on the load receiver 38 and subsequently removed from the load receiver 38, one after another.

It is respectfully submitted that the Lochner et al. patent does not disclose the combination of features set forth in claim 1 at least because Lochner et al. fails to disclose the claimed transport device having "means for placing on and subsequently removing from the load receiver one after another of said receptacles." In contrast, the Lochner et al. patent describes a device that includes a plurality of balances, each of which is provided for weighing *only one* specific receptacle of a plurality or set of receptacles that have been filled simultaneously by a multi-channel pipette. For instance, with reference to Figure 1, Lochner et al. discloses that a holder 8 moves by way of a pneumatic cylinder 5 between two positions: a first "sampling" position where containers 20 are filled (see column 3, lines 18-20), and a second "weighing" position where the containers are placed over respective receiving plates 9 (see column 3, lines 50-62). The device of Lochner et al. does not operate to move more than one receptacle to a same receiving plate. As a result, it does not disclose the claimed means for placing on and subsequently removing from the load receiver one after another of the receptacles.

The Office Action includes the statement “[u]se of plural load receivers is not excluded by the claim language. (See page 4, lines 5-6.) It is respectfully submitted, however, that this statement is not relevant to the specific combination of claimed features including means for placing on and subsequently removing from *the load receiver* one after another of the receptacles. That is, the claimed means operates to subsequently place, one after the other, more than one receptacle on *the same load receiver*. There is simply no description of this claimed feature in the Lochner et al. patent. By contrast, the drive unit (i.e., pneumatic cylinder 5 and mount 8) of Lochner et al. will always transport a container to only one, and only one, receiving plate 9.

Nor would it have been obvious from the Lochner et al. patent to place receptacles, one after another, on the same balance, as claimed. Indeed, column 2, lines 13-16 of the Lochner et al. patent discloses: “Thus, according to the present invention, both the pipetting and the weighing for *all* pipette channels of a multi-channel pipette can be conducted *simultaneously*.” The concept of simultaneous weighing disclosed in Lochner et al. employs a plurality of receiving plates 9, one for each glass tube 2, 20, and is entirely different from, if not contrary to the present invention, which operates to sequentially carry out weighing of receptacles on one load receiver. The Lochner et al. patent, therefore, actually *teaches away* from the present invention.

For at least these reasons, the Lochner et al. patent neither discloses nor renders obvious the combination of each and every feature set forth in amended claim 1. The rejection is therefore improper and should be withdrawn.

Claims 2, 3, 5-7, 11, 12, 19 and 23-26 depend from independent claim 1 and are therefore allowable at least for the above reasons. Furthermore, these claims recite additional, more specific features of the invention, which are likewise not disclosed by the Lochner et al. reference.

In view of the foregoing amendments and remarks, Applicant believes the rejection of the pending claims under Sections 102 and 103 should be withdrawn. The application is believed to be in condition for allowance, and prompt notice of the same is earnestly solicited.

Respectfully submitted,
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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By: 
John F. Guay
Registration No. 47,248

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620